

AMENDED IN ASSEMBLY JUNE 10, 2010

AMENDED IN ASSEMBLY JANUARY 11, 2010

AMENDED IN SENATE MAY 28, 2009

AMENDED IN SENATE APRIL 13, 2009

SENATE BILL

No. 435

**Introduced by Senator Pavley
(Coauthor: Senator Lowenthal)**

February 26, 2009

~~An act relating to air pollution. An act to amend Sections 27156 and 42001.14 of, and to add Section 27202.1 to, the Vehicle Code, relating to vehicles.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 435, as amended, Pavley. ~~Air pollution: motorcycles. Vehicles: pollution control devices.~~

(1) Existing law prohibits a person from operating or leaving standing upon a highway, a motor vehicle, unless the vehicle is equipped with the required pollution control device that is correctly installed and in operating conditions. Existing law prohibits a person from disconnecting, modifying, or altering those required pollution control devices. Existing law prohibits a person from installing, selling, offering for sale, or advertising a device, apparatus, or mechanism intended for use with, or as a part of, the required pollution control device or system that alters or modifies the original device or performance of that device or system. A violation of these provisions is an infraction punishable by a specified fine.

This bill would revise the fine to be not less than \$300.

(2) Existing federal regulations require a motorcycle manufactured on and after January 1, 1983, and exhaust emission systems for those motorcycles, to meet specified noise emissions standards and require that a label be affixed onto the motorcycle or exhaust emission system indicating that the motorcycle or exhaust emission system meets the noise emissions standards.

This bill would make it a crime for a person to park, use, or operate a motorcycle, registered in the state, that does not have the above label, and a violation of this provision is punishable by a fine of not less than \$300, thereby imposing a state mandated local program by creating a new crime.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law establishes a motor vehicle inspection and maintenance program (smog check), administered by the Department of Consumer Affairs, that provides for the inspection of motor vehicles upon registration, biennially upon renewal of registration, upon transfer of ownership, and in certain other circumstances. Existing law exempts from biennial inspection all motorcycles until the department implements test procedures applicable to motorcycles.~~

~~Existing law also prohibits any person from disconnecting, modifying, or altering a motor vehicle pollution control device, including a catalytic converter on a motorcycle.~~

~~This bill would declare the Legislature's intent to enact legislation to increase enforcement, including, but not limited to, increasing penalties for tampering with pollution control devices on motorcycles, with regard to all relevant anti-tampering laws that apply to motorcycles.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 27156 of the Vehicle Code is amended to
2 read:

1 27156. (a) ~~No~~A person shall *not* operate or leave standing
2 upon a highway a motor vehicle that is a gross polluter, as defined
3 in Section 39032.5 of the Health and Safety Code.

4 (b) ~~No~~A person shall *not* operate or leave standing upon a
5 highway a motor vehicle that is required to be equipped with a
6 motor vehicle pollution control device under Part 5 (commencing
7 with Section 43000) of Division 26 of the Health and Safety Code
8 or any other certified motor vehicle pollution control device
9 required by any other state law or any rule or regulation adopted
10 pursuant to that law, or required to be equipped with a motor
11 vehicle pollution control device pursuant to the National Emission
12 Standards Act (42 U.S.C. Secs. 7521 to 7550, inclusive) and the
13 standards and regulations adopted pursuant to that federal act,
14 unless the motor vehicle is equipped with the required motor
15 vehicle pollution control device that is correctly installed and in
16 operating condition. ~~No~~A person shall *not* disconnect, modify, or
17 alter any ~~such~~ required device.

18 (c) ~~No~~A person shall *not* install, sell, offer for sale, or advertise
19 any device, apparatus, or mechanism intended for use with, or as
20 a part of, a required motor vehicle pollution control device or
21 system that alters or modifies the original design or performance
22 of the motor vehicle pollution control device or system.

23 (d) If the court finds that a person has willfully violated this
24 section, the court shall impose the maximum fine that may be
25 imposed in the case, and no part of the fine may be suspended.

26 (e) “Willfully,” as used in this section, has the same meaning
27 as the meaning of that word prescribed in Section 7 of the Penal
28 Code.

29 (f) ~~No~~A person shall *not* operate a vehicle after notice by a
30 traffic officer that the vehicle is not equipped with the required
31 certified motor vehicle pollution control device correctly installed
32 in operating condition, except as may be necessary to return the
33 vehicle to the residence or place of business of the owner or driver
34 or to a garage, until the vehicle has been properly equipped with
35 such a device.

36 (g) The notice to appear issued or complaint filed for a violation
37 of this section shall require that the person to whom the notice to
38 appear is issued, or against whom the complaint is filed, produce
39 proof of correction pursuant to Section 40150 or proof of
40 exemption pursuant to Section 4000.1 or 4000.2.

(h) This section shall not apply to an alteration, modification, or modifying device, apparatus, or mechanism found by resolution of the State Air Resources Board to do either of the following:

(1) Not to reduce the effectiveness of a required motor vehicle pollution control device.

(2) To result in emissions from the modified or altered vehicle that are at levels that comply with existing state or federal standards for that model-year of the vehicle being modified or converted.

(i) Aftermarket and performance parts with valid State Air Resources Board Executive Orders may be sold and installed concurrent with a motorcycle's transfer to an ultimate purchaser.

(j) This section applies to motor vehicles of the United States or its agencies, to the extent authorized by federal law.

(k) *A violation of subdivision (b) or (c) shall be punishable by a fine of not more than three hundred dollars (\$300), and no part of the fine imposed may be suspended.*

SEC. 2. Section 27202.1 is added to the Vehicle Code, to read:

27202.1. (a) *Notwithstanding other law, a person shall not park, use, or operate a motorcycle, registered in the State of California, and manufactured on and after January 1, 1983, that does not bear the required applicable federal Environmental Protection Agency exhaust system label pursuant to Subparts D (commencing with Section 205.150) and E (commencing with Section 205.164) of Part 205 of Title 40 of the Code of Federal Regulations.*

(b) *A violation of this section is punishable by a fine of not more than three hundred dollars (\$300), and no part of the fine imposed may be suspended.*

SEC. 3. Section 42001.14 of the Vehicle Code is amended to read:

42001.14. (a) ~~Every~~ A person convicted of an infraction for the offense of disconnecting, modifying, or altering a required pollution control device in violation of Section 27156 shall be punished as follows: pursuant to subdivision (k) of Section 27156.

(1) ~~For a first conviction, by a fine of not less than fifty dollars (\$50), nor more than one hundred dollars (\$100).~~

(2) ~~For a second or subsequent conviction, by a fine of not less than one hundred dollars (\$100), nor more than two hundred fifty dollars (\$250).~~

1 (b) (1) The fines collected under subdivision (a) shall be
2 allocated pursuant to subdivision (d) of Section 42001.2.

3 (2) The amounts allocated pursuant to paragraph (1) to the air
4 pollution control district or air quality management district in
5 which the infraction occurred shall first be allocated to the State
6 Air Resources Board and the Bureau of Automotive Repair to pay
7 the costs of the state board and the bureau under Article 8
8 (commencing with Section 44080) of Chapter 5 of Part 5 of
9 Division 26 of the Health and Safety Code.

10 (3) The funds collected under subdivision (a) which are not
11 required for purposes of paragraph (2) shall be used for the
12 enforcement of Section 27156 or for the implementation of Article
13 8 (commencing with Section 44080) of Chapter 5 of Part 5 of
14 Division 26 of the Health and Safety Code.

15 *SEC. 4. No reimbursement is required by this act pursuant to*
16 *Section 6 of Article XIII B of the California Constitution because*
17 *the only costs that may be incurred by a local agency or school*
18 *district will be incurred because this act creates a new crime or*
19 *infraction, eliminates a crime or infraction, or changes the penalty*
20 *for a crime or infraction, within the meaning of Section 17556 of*
21 *the Government Code, or changes the definition of a crime within*
22 *the meaning of Section 6 of Article XIII B of the California*
23 *Constitution.*

24 ~~SECTION 1. (a) Whereas subdivision (b) of Section 27156 of~~
25 ~~the Vehicle Code specifically prohibits any person from~~
26 ~~disconnecting, modifying, or altering any motor vehicle pollution~~
27 ~~control device and "motor vehicle" as defined under subdivision~~
28 ~~(a) of Section 415 includes a motorecycle that is required to be~~
29 ~~equipped with a catalytic converter.~~

30 ~~(b) Therefore, it is the intent of the Legislature to enact~~
31 ~~legislation to increase enforcement, including, but not limited to,~~
32 ~~increasing penalties for tampering with pollution control devices~~
33 ~~on motoreycles, with regard to all relevant anti-tampering laws~~
34 ~~that apply to motoreycles.~~